

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STATE OF TEXAS, et al.,

Plaintiffs,

v.

RISING EAGLE CAPITAL GROUP LLC, et al.,

Defendants.

CASE NO. 4:20-cv-02021

**PLAINTIFFS' OMNIBUS REPLY TO DEFENDANT SPILLER'S RESPONSES
TO PLAINTIFFS' MOTION TO MODIFY THE STIPULATED ORDER
AND MOTION TO SHOW CAUSE**

Plaintiff States of Arkansas, Indiana, Michigan, Missouri, North Carolina, North Dakota, Ohio, and Texas (collectively “Plaintiffs” or “Plaintiff States”) respectfully file this omnibus reply to Defendant John C. Spiller, II’s Response to Motion to Modify (ECF No. 266) and Response to Show Cause (ECF No. 267).

I. STATEMENT OF THE ISSUES

Whether the Court should modify Defendant Spiller’s Stipulated Order due to repeated and flagrant violations. Whether the Court should hold Defendant Spiller in civil contempt for repeated and flagrant violations of the Stipulated Order.

II. ARGUMENT

A. Failure to respond to an argument waives the claim or issue.

Courts in this district have held that a failure to respond to an argument waives the claim or issue. *See Garcia v. Select Portfolio Servicing, Inc.*, No. 4:23-CV-00470, 2024 WL 478071, at *3 (S.D. Tex. Jan. 19, 2024), *report and recommendation adopted*, No. 4:23-CV-470, 2024 WL 479611 (S.D. Tex. Feb. 7, 2024); *Ellis v. Carrington Mortgage Services, LLC*, No. 4:19-CV-4370, 2021 WL 3603604, at *4 (S.D. Tex. Aug. 13, 2021); *see also Hensley v. Wal-Mart Stores Inc.*, 290 F. App’x 742, 743 (5th Cir. 2008), *Nichols v. Enterasys Networks, Inc.*, 495 F.3d 185, 190 (5th Cir. 2007) (explaining that inadequately briefed issues are considered waived); S.D. Tex. L.R. 7.4.

B. Defendant Spiller does not advance any contrary argument or evidence.

On March 28, 2024, Plaintiffs filed a motion to modify Defendant Spiller's Stipulated Order (ECF No. 258) and a motion to show cause¹ (ECF No. 257-1). Plaintiffs' Motion to Show Cause included an overabundance of evidence showing Defendant Spiller's violations of the Stipulated Order.

On April 17, 2024, Defendant Spiller filed Responses to the Motion to Modify (ECF No. 266) and the Motion to Show Cause (ECF No. 267).

In his responses, Defendant Spiller does not advance any evidence to rebut Plaintiffs' evidence submitted in the Motion to Show Cause. Defendant Spiller's motions are purely argumentative and conclusory. Further, the responses fail to contest specific allegations set forth in the Motion to Show Cause. Without providing any evidence and without rebutting Plaintiffs' evidence, Defendant Spiller's main responses are merely that he is not "*currently*" violating the Stipulated Order, and the assertion that he used the aliases for "legitimate business purposes."

III. CONCLUSION

For the foregoing reasons, Plaintiff States respectfully request the Court (1) issue an order requiring Spiller to show cause why he should not be held in contempt of court; and (2) issue an order granting Plaintiffs' Motion to Modify the Stipulated Order for Permanent Injunction and Monetary Judgment Against Spiller. In light of Defendant Spiller being *pro*

¹ It was filed a Motion for Leave to File Page Extension. ECF No. 257. The Court granted this motion. ECF No. 264. Plaintiffs then refiled the Motion to Show Cause. ECF No. 265.

se, Plaintiffs would welcome a hearing to respond to, or rebut, any argument or evidence the Court may want to inquire about in further detail.

April 24, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(a), I hereby certify that a true and correct copy of the above and foregoing document has been served using the CM/ECF system to all counsel and parties of record. I also certify that a true and correct copy of the above and foregoing document has been served via email and U.S. mail to John C. Spiller, II on April 24, 2024.

/s/ Joseph Yeoman
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